

HIGH COURT OF CHHATTISGARH, BILASPUR

SB: Hon'ble Shri Justice Ram Prasanna Sharma

CRR No. 452 of 2017

- Anees Ahmad S/o Late Mohd. Naimuddin Aged About 30 Years R/o Mominpura, Behind Samlaya Mandir, Ward No. 40, Rasid Paper Gali, Police Station City Kotwali, Tahsil Ambikapur , District Surguja, Chhattisgarh.

---- **Petitioner**

Versus

- State Of Chhattisgarh Through The Police Station Civil Lines, Bilaspur, District Bilaspur, Chhattisgarh.
- Aparna Baxi D/o Late Tapan K. Baxi, R/o 5/87, Near Sain Mandir, Nehru Nagar, Bilaspur, District Bilaspur, Chhattisgarh.

--Respondent

For Applicant	:	Mr. Raghavendra Pradhan, Advocate.
For respondent / State	:	Mr. Vivek Singhal, Panel Lawyer
For respondent No.2	:	Mr. Atnu Ghosh, Advocate.

31-10-2017

1. Heard on admission.
2. Admit.
3. As both the respondents have appeared in the case, issuance of notice is not required.
4. Revision is heard finally.
5. This revision is preferred against the order dated 29-3-2017 passed by the Additional Sessions Judge (FTC), Bilaspur in Sessions Trial No. 37 of 2017, wherein charges under Section 493 of the IPC were framed against the revisioner along with Section 376 of the IPC, for charges under Section 493 of the IPC, there is a rider under Section 198 of the Cr.P.C that no court can take cognizance of an offence punishable under Chapter XX of the IPC except upon a complaint made by the aggrieved person.

6. Admittedly charge-sheet was filed by Police Station, Civil Line, Bilaspur and on the basis of charge-sheet, charge under Section 493 of the IPC were framed which is not permissible under law. As on the basis of charge-sheet, the case was committed to the Court of Sessions and now the case is pending before the Additional Sessions Judge (FTC), Bilaspur as Sessions Trial No. 37 of 2017. Section 198 of the Cr.P.C. may be read as under:

“198 (1) Prosecution for offences against marriage --
No Court shall take cognizance of an offence punishable under section XX of the Indian Penal Code (45 of 1860) except from a complaint made by some person aggrieved by the offence”.

7. In the case on hand, no person has filed any complaint before the court aggrieved by the offence, but charge-sheet was filed by the police authorities of Civil Lines, Bilaspur and the same is not in consonance with the provisions of Section 198 of the Cr.P.C. The case under Section 493 of the IPC is a complaint case and procedure regarding the complaint case will be adopted in such case and not procedure as adopted by the Court of Sessions.
8. Looking to the legal aspects of the matter, charge framed under Section 493 of the IPC is not sustainable as the same is not in the fitness of the procedure and the complaint for the same can be filed separately.
9. Now, Additional Sessions Judge (FTC), Bilaspur, will try the offence under Section 376 of the offence in the said Sessions Trial No. 37 of 2017 and will not proceed with offence under Section 493 of the IPC.
10. In view of the above, revision is allowed. Consequently, all other interlocutory applications also stand disposed of.

Sd/-

(Ram Prasanna Sharma)
Judge

Raju